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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/920,924	08/02/2001	Harry C. Sweere	44374.5.1	7164

22859 7590 01/15/2003

INTELLECTUAL PROPERTY GROUP  
FREDRIKSON & BYRON, P.A.  
4000 PILLSBURY CENTER  
200 SOUTH SIXTH STREET  
MINNEAPOLIS, MN 55402

EXAMINER

BAXTER, GWENDOLYN WRENN

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 01/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/920,924

Applicant(s)

SWEERE ET AL.

Examiner

Gwendolyn Baxter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 August 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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This is the first office action for serial number 09/920,924, Methods and Apparatus for Generating Force and Torque, filed on August 2, 2001. This application is a continuation in part of 09/724,494 filed November 28, 2000.

***Priority***

Acknowledgment is made of applicant's claim for priority under 35 U.S.C. 119(e).

***Information Disclosure Statement***

The information disclosure statement filed December 18, 2001 and February 13, 2002 has been placed in the application file, and the information referred to therein has been considered.

***Claim Objections***

The claims are objected to because they include reference characters which are not enclosed within parentheses.

Reference characters corresponding to elements recited in the detailed description of the drawings and used in conjunction with the recitation of the same element or group of elements in the claims should be enclosed within parentheses so as to avoid confusion with other numbers or characters which may appear in the claims. See MPEP § 608.01(m).

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***Drawings***

The drawings are objected to. The reference characters found in claims 1, 4-11, and 21-25 are not in the drawings as stated in these claims. A proposed drawing correction or corrected drawings are required in reply to the Office action.

***Claim Rejections - 35 USC § 112***

Claims 10, 11, 17, 24 and 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 10, line 1, "the deflection" and line 2, "the trigonometric TAN function" lack proper antecedent basis. Similar problem occurs in claim 17.

In claim 11, line 4, "the magnitude" lacks proper antecedent basis.

In claim 24, lines 2 and 3, "the trigonometric TAN function", respectively, lacks proper antecedent basis.

***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed.

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Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321© may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-25 provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-49 of copending Application No. 09/724,494. Although the conflicting claims are not identical, they are not patentably distinct from each other.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows: An apparatus comprising a cam and a cam following assembly (). The cam having at least a first guiding surface. The cam following assembly includes a first following surface for engaging the first guiding surface of the cam at least at a first contact point and a means for urging the first following surface against the first guiding surface of the cam. The first

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following surface defines a contact angle with the first guiding surface of the cam. The first guiding of the cam being shaped such that the contact angle of the first follower changes substantially continually as the cam following assembly moves along a longitudinal axis of the cam. The first guiding surface of the cam has a substantially continually changing slope or radius of curvature. The means for urging the first following surface against the first guiding surface of the cam comprises a spring comprising a leaf spring, coil spring, gas spring, or elastomeric material. The spring deflection varies in a manner substantially inversely proportionally to an associated variation in the trigonometric TAN function of the contact angle throughout a travel of the cam following assembly. The shape of the cam is such that the movement of the cam following assembly along the longitudinal axis of the cam causes a deflection of the spring an a change in the contact angle of the first following surface such that the magnitude of an axial force component of a reactionary force acting on the first following surface is substantially constant throughout a travel of the cam following assembly.

Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending.

### **Conclusion**

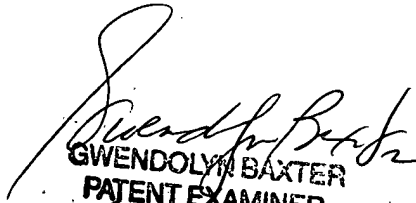
The following prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Anderson 1,222,915; Brown 1,965,973; Harwood 3,113,793; Gunn 3,534,935; Longbottom 3,976,016; and West 5,549,264 teach an vertically adjustable device.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gwendolyn Baxter whose telephone number is (703) 308-0702. The examiner can normally be reached Monday-Friday from 8:30 A.M. to 5:00 P.M. Eastern Time Zone.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1113. The fax phone number for this Group is (703) 305-3597.

gb  
January 10, 2003

  
GWENDOLYN BAXTER  
PATENT EXAMINER  
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